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PACIFIC TELESIS
Group Washington

February 19, 1997

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FEDERAL [illegible] COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Dear Mr. Caton:

Re: *CC Docket No. 96-149, Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area*

On behalf of Pacific Telesis Group, please find enclosed an original and twelve copies of its *"Comments"* in the above proceeding.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,

Enclosures

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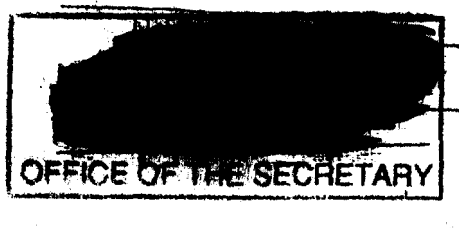

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended; and Regulatory Treatment of LEC Provision of Interexchange Services Originating in the LEC's Local Exchange Area	CC Docket No. 96-149

COMMENTS OF PACIFIC TELESIS GROUP

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TABLE OF CONTENTS

Page

COMMENTS OF PACIFIC TELESIS GROUP 1

I. SUMMARY AND INTRODUCTION (¶362) 1

II. THE COMMISSION SHOULD LIMIT REPORTING REQUIREMENTS TO THOSE NECESSARY TO IMPLEMENT THE SERVICE PROVISIONING INTERVAL REQUIREMENTS OF §272(e)(1) (¶¶ 363-382) 4

A. Service Categories And Units Of Measure Should Be Limited To What Is Necessary To Show Compliance With §272(e)(1) 4
1. Desired Due Date (¶372) 4
2. Time From BOC Promised Due Date (¶372) 6
3. Time To Firm Order Confirmation (¶372) 6
4. Time From PIC Change Requests To Implementation (¶372) 7
5. Time To Restore And Trouble Duration (¶372) 7
6. Time To Restore PIC (¶372) 8
7. Mean Time To Clear Network (¶372) 8

B. Categories And Units Of Measurement Should Be Applied In Ways That Stay Within What Is Required To Implement §272(e)(1) 9
1. BOC-Promised Due Date (¶374) 9
2. ONA Reports As A Model For Use With IXCs (¶375) 9
3. Provisioning For ISPs And Telephone Exchange Service (¶376) 10
4. Existing Requirements (¶377) 11
5. Relative Data (¶378) 11

C. Reports Should Be Filed Quarterly And Retained For One Year (¶379) 12

D. Levels Of Aggregation Should Be Reasonable (¶¶380-381) 12

E. New Reporting Requirements Should Be Consistent With Existing Requirements And Limited To What Is Necessary To Implement The Service Provisioning Requirements Of §272(e)(1) (¶382) 13

III. CONCLUSION 15

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COMMENTS OF PACIFIC TELESIS GROUP

Pacific Telesis Group submits these comments in response to the *Further Notice Of Proposed Rulemaking ("Further Notice")* in the above-captioned proceeding.

I. SUMMARY AND INTRODUCTION (¶362)

The Commission concluded in the *First Report and Order* in this proceeding that "specific public disclosure requirements are necessary to implement section 272(e)(1) effectively."[1] In the *First Report and Order,* the Commission also acknowledged that the intent

[1] *See id.* at para. 362.

of the Telecommunications Act of 1996 is "to provide for a pro-competitive, deregulatory national policy framework...."[2] In keeping with this goal of Congress, the Commission should adopt its tentative conclusion in the *Further Notice* that it "should limit the scope of the proposals considered in this docket to requirements necessary to implement the service interval requirements of section 272(e)(1)."[3] Additional requirements would be neither procompetitive nor deregulatory.

By its clear language, implementing Section 272(e)(1) requires only the disclosure of sufficient information to show that the BOC (and any affiliate that is subject to the requirements of §251(c)) fulfills requests from an unaffiliated entity for telephone exchange service and exchange access as quickly as it provides these services to itself or to its affiliates. The requirement is limited to a comparison of the service provisioning intervals for the purpose of detecting discrimination in the provisioning of services. The requirement was not intended to be a measure of service quality. Accordingly, disclosure of absolute numbers is not necessary because a statistical analysis consisting of percentages and averages will suffice.

In addition, where applicable, the requirement may be satisfied by pre-existing procedures for the disclosure of information. The Commission's ONA reporting requirements are more than adequate to meet §272(e)(1) requirements in connection with enhanced/information services. The interconnection requirements of §§251 and 252, implemented in CC Docket 96-98, exceed what is necessary regarding exchange services. Interconnection agreements, which are approved by state public services commissions and are

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[2] Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 ("1996 Act"). *First Report and Order* ¶ 1 (*quoting* Conference Report) (emphasis added).

[3] *Further Notice* at para. 382 (emphasis added).

available to the public and other service providers, typically include a requirement that the incumbent LEC report on comparisons of provisioning intervals and other matters.

The one relevant type of reporting that has not already been covered in other proceedings and, thus, should be addressed, is the reporting of information necessary to show that BOCs (and any §251 affiliates) do not give preferential provisioning intervals for interexchange access services provided to their interLATA affiliates as compared to other IXCs. The information which is necessary for detection of any discriminatory activity is limited to (1) percentages of provisioning commitments missed and (2) averages of provisioning intervals.

Most BOCs already provide reports to IXCs upon their request concerning provisioning performance for access services. The information the BOCs currently provide is what IXCs have considered important. For instance, AT&T has Direct Measures of Quality ("DMOQ") guidelines that we follow in order to assure AT&T that it is getting high quality service. The faith that AT&T places in the existing DMOQ process is evidenced by its expressed goal to be a world class provider of services to end user customers and that to achieve this goal requires a commitment from AT&T's "Access Providers."[4]

The issue at hand, however, is one of demonstrating nondiscrimination in provisioning access services. The measurements used by AT&T and others are not measures of parity. They are performance standards set exclusively by the IXCs. Nonetheless, review of the existing measurements is useful. Certainly, the categories and units of measure for reporting access service provisioning intervals should not go beyond what exist now. We have expended substantial resources meeting the requests of IXCs, and it would be burdensome, costly, and

[4] AT&T January 1, 1997 DMOQ.

inefficient to have to modify reporting systems again now. The only data which should be added are on the BOCs' interLATA affiliates' provisioning intervals for interexchange access services. To require more would needlessly require the building of new databases of information in order to provide superfluous measurements.

In sum, the Commission should limit reporting requirements to the types of data and disaggregation levels that are necessary to ensure nondiscriminatory interexchange access provisioning intervals between the BOCs' interLATA affiliates and other IXCs. Reporting requirements should be reasonable, practical, and limited to what is necessary to implement the statute, so that the industry does not become so unduly burdened with reporting requirements as to impair efficiency. This approach will ensure that IXCs and others have the ability to detect discriminatory activity, in support of Congress's "procompetitive, deregulatory" goals.

II. THE COMMISSION SHOULD LIMIT REPORTING REQUIREMENTS TO THOSE NECESSARY TO IMPLEMENT THE SERVICE PROVISIONING INTERVAL REQUIREMENTS OF §272(e)(1) (¶¶ 363-382)

A. Service Categories And Units Of Measure Should Be Limited To What Is Necessary To Show Compliance With §272(e)(1)

The *Further Notice* suggests seven categories for measurements, based principally on the categorization suggested by AT&T. We discuss each of the suggested categories below.

1. Desired Due Date (¶372)

The Commission asks whether it should require the BOCs to report information based on "successful completion according to desired due date, measured in a percentage." *Further Notice*, ¶372. Although we have voluntarily measured results on this basis solely for IXCs who have requested them (*e.g.*, AT&T), BOCs should not be required to publicly report

results in this way. As the Commission acknowledges, "the BOCs have no control over a customer's requested due date." *Further Notice*, ¶373. The IXC could continually demand unreasonable due dates, and public reports on that basis would not be meaningful. The reports could give the incorrect appearance that the BOC was doing a much worse or a much better job on provisioning than was actually the case. The data resulting from this measurement would just as easily show that IXCs make unreasonable requests, and would likely result in frequent disputes as to whether the desired due date was unattainable or unreasonable. An inaccurate picture of the existence or absence of discrimination could arise based on the different subjective "desires" of the BOC's affiliated interLATA provider as compared to the subjective desires of other IXCs. Such a measure would encourage IXCs and the affiliate to be unreasonable in their requests for due dates. It would not serve the objective of measuring actual performance in order deter or detect discrimination.

The meaningful time period against which to measure and publicly report performance is the time interval from (1) the date agreed to between the BOC and IXC for completion of provisioning (the "Negotiated Due Date") through (2) the date provisioning is actually completed. The Negotiated Due Date is meaningful because both the BOC and the IXC are involved in the determination of the date as a function of factors within the control of both parties, including the readiness of each party. As such, this date reflects a balance between the desires of the IXC and the practical abilities of both the BOC and the IXC to provision the service.

2. Time From BOC Promised Due Date (¶372)

The Commission asks whether it should require a service category for "time from the BOC-promised due date to circuit being placed in service, measured in terms of the percentage installed within each successive twenty-four hour period until ninety-five percent complete...." *Further Notice*, ¶372. As discussed in subsection 1 above, the BOC promised due date is meaningful and appropriate for use in measuring and reporting since it is the result of negotiation between the BOC and the IXC. For purposes of meeting the requirements of §272(e)(1), however, there is no need to require that the measurement be reported in terms of the percentage installed within each successive twenty-four hour period. Moreover such a requirement would necessitate system changes and would be unduly burdensome. Section 272(e)(1) prohibits a BOC from favoring its interLATA affiliate in the provisioning of access services. The percentages of missed promised due dates and the average numbers of days of provisioning intervals are sufficient measures to accomplish that goal.

3. Time To Firm Order Confirmation (¶372)

The Commission asks whether it should require a service category for "time to firm order confirmation, measured in terms of the percentage received within each successive twenty-four hour period until ninety-five percent complete...." *Further Notice*, ¶372. This measurement tracks the percent of Firm Order Confirmations returned to the IXC within 24 hours of the receipt of an accurate service request. The Firm Order Confirmation confirms the due date on the order and, in some cases, exchanges technical information. We perform this measurement today for dedicated access services for IXCs (*e.g.*, AT&T) that have requested it. Measurements for switched access are based on different intervals based on the trunk assignment process. These measurements vary by the number of switched access trunks being ordered and

by whether or not the order is part of a negotiated project. Again, however, as discussed in subsections 1 and 2 above, there is no need to require this category for measurement and reporting in order to meet the requirements of §272(e)(1).

4. Time From PIC Change Requests To Implementation (¶372)

The Commission asks whether it should have a service category for "time from PIC change requests [by IXCs] to implementation [by the BOC], measured in terms of percentage implemented within each successive six hour period until ninety-five percent complete...." *Further Notice*, ¶372. This service category would be generally acceptable, but six hour intervals would be arbitrary and unreasonable. The percentage completed within 48 hours would be appropriate, based on current measurements and standards and negotiated agreements, for showing whether the BOC was giving its interLATA affiliate preferential treatment.[5]

5. Time To Restore And Trouble Duration (¶372)

The Commission asks if it should have a service category for "time to restore and trouble duration, measured in terms of the percentage restored within each successive one hour interval until ninety-five percent of incidents are resolved...." *Further Notice*, ¶372. We report mutually agreed upon measurements to IXCs concerning repair intervals. For instance, in the past we have provided a measurement of the type that the FCC asks about here: the percent of access circuits/facilities restored within a particular interval. However, "mean time to restore" is a more widely accepted measure of timely service restoration. Moreover, rather than measuring

[5] IntraLATA presubscription will have a short term impact on the interval required for PIC changes.

the percent restored within an hour, a two hour interval would be more appropriate because it would capture a larger sample of occurrences.

6. Time To Restore PIC (¶372)

The Commission asks if it should require a service category for "time to restore PIC after trouble incident, measured by percentage restored within each successive one hour interval until ninety-five percent restored...." *Further Notice,* ¶372. AT&T has been the only IXC that measures this particular service category, and AT&T has measured it as a subcategory of another measurement (*i.e.*, "POTS troubles"). There certainly is no need to establish federal rules for this category. If the Commission did so, we would have to implement system and process changes in order to identify and track the data.

7. Mean Time To Clear Network (¶372)

The Commission asks if it should require a service category for "mean time to clear network and the average duration of trouble, measured in hours." *Further Notice*, ¶372. Only one IXC has used this measure in the past, and even that IXC removed it as an official measure in 1997. This measurement would be arbitrary since it could include time expended dispatching repair personnel to the premises to identify who is responsible (the access provider, IXC, or end user) in order to meet the demand of the IXC, even though the access provider had already done remote testing and reported that the trouble was not in its portion of the network.

B. Categories And Units Of Measurement Should Be Applied In Ways That Stay Within What Is Required To Implement §272(e)(1)

1. BOC-Promised Due Date (¶374)

The Commission asks if it "should require the BOCs to disclose the BOC-promised due date itself, *i.e.*, the length of the interval promised by the BOCs to their affiliates at the time an order is placed." *Further Notice*, ¶374. The BOCs should report the average actual interval that it took for the BOC to provision the access service for its interLATA affiliate compared to the average intervals for provisioning the same access service for other IXCs. Averaged data is more meaningful than individual intervals because averaged data can take into account the fact service provisioning times vary based on the size and complexity of the order, unique characteristics of the service, and the geographic location of the service to be provisioned. Providing average intervals is consistent with the Commission's ARMIS Report requirements.

2. ONA Reports As A Model For Use With IXCs (¶375)

The Commission asks if the *Further Notice's* "proposed service categories and units of measure for these categories are more appropriate to implement section 272(e)(1) than the categories currently included in the *ONA* installation and maintenance reports or than PacTel's proposed modifications of *ONA* installation and maintenance reports." *Further Notice*, ¶375. First, the *Further Notice's* proposed categories and units of measures are defective in the ways discussed above. Second, our proposed modifications of ONA reports include all the information necessary to implement §272(e)(1) and should be adopted by the Commission.

In our proposal, we revised the ONA reports to include the types of services that BOCs provide to IXCs. The subset of access services and reporting categories presented in attachment 6 to our letter of October 18, 1996, cited in the *Further Notice,* reflect access services

as they are provided to IXCs. We propose use of those categories because that is the way markets have developed. For example, DS1 and other High Capacity access services are separate categories in the market, as are DS3 and above access services. There is no reason to expend resources to further disaggregate these data because there is no demonstrable benefit to be gained by doing so. Our complete list of proposed access service categories is as follows: 1) Feature Groups A, B & D;[6] 2) Basic Data and Voice (Analog Dedicated Access); 3) Digital Dedicated Access; 4) 1.544 MBPS BSA (DS-1 High Capacity Access); and 5) DS-3 and Above Access.

3. Provisioning For ISPs And Telephone Exchange Service (¶376)

The Commission asks if the *Further Notice's* proposed categories will provide sufficient information for ISPs and are sufficient to implement the nondiscriminatory provision of telephone exchange service in accordance with §272(e)(1). *Further Notice*, para. 376. Whether for IXCs, ISPs, or LECs, those proposed categories have the defects we have discussed above.

The Commission already has more than adequate provisioning report requirements in place through its *ONA* rules to provide sufficient information for ISPs. No additional requirements are needed.

Concerning telephone exchange service, private negotiations between carriers (under §§251 and 252 of the 1996 Act, subject to state commission approval) are the most appropriate means to develop reporting requirements for the provision of services to competitive LECs ("CLECs"). In our negotiations, we have supported a set of reporting measures to

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[6] In our *ex parte* letter, we listed the Feature Groups separately, but combining them would be more consistent with existing processes and systems and provide more meaningful information (*e.g.*, there is no demand for Feature Group A).

demonstrate parity in the local interconnection market. We will provide to individual CLECs information about what we have delivered to them, to all other CLECs in aggregate, and to ourselves, so each CLEC can make a private comparison without jeopardizing sensitive market information. There is no need to replicate in public reports the information developed and shared on a contractual basis between carriers.

4. Existing Requirements (¶377)

The Commission asks the extent to which the industry or state regulators currently collect data using the service categories and units of measure included in the *Further Notice's* proposal. *Further Notice*, ¶377. We discussed above the reporting that we do for IXCs and specifically for AT&T. In our letter of October 18, 1996, we included descriptions and copies of reports that Pacific Bell and Nevada Bell file with the California and Nevada state commissions. We do not provide data to the state commissions in the categories proposed in the *Further Notice.* The most relevant filing that we identified is Pacific Bell's report of percent of installation commitments met. Similarly, the Commission's ARMIS report requirements include the percent of commitments met and average intervals. The ARMIS reports also include total number of orders or circuits for broad categories (*e.g.*, Switched Access and Special Access). As discussed below, total numbers are unnecessary and inappropriate for new requirements.

5. Relative Data (¶378)

The Commission requests comments on its proposal, which it notes is consistent with our October 18, 1996 letter, to use relative data rather than "the disclosure of absolute figures for the number of orders placed by an affiliate." *Further Notice*, para. 378. Presenting absolute figures for the number of orders would reveal competitively sensitive proprietary information. Relative data (percent of missed appointments and average intervals) are sufficient

to reveal any pattern that may be of concern, and will be no less effective in deterring discrimination. In the event that the number of orders is too low for the relative data to be statistically significant, the BOC should so indicate in a footnote.

C. Reports Should Be Filed Quarterly And Retained For One Year (¶379)

Consistent with Congress's "pro-competitive, deregulatory" goals, and years of experience in *ONA*, reports should be required no more than quarterly. More often than that would be unreasonably burdensome. This frequency also would be consistent with industry practices. For instance, although we report some data to AT&T monthly, AT&T evaluates us through its DMOQ process on a quarterly basis.[7]

The averaged data in reports should be retained for one year. Disaggregated data should not have to be retained. Systems and databases are set to delete information after set time periods in order to make room for new data. It would be a heavy and unreasonable burden to require that we revise systems and databases to retain data for unreasonably long time periods.

D. Levels Of Aggregation Should Be Reasonable (¶¶380-381)

The Commission asks "whether the BOCs should aggregate their own requests and the requests of all of their affiliates for each service category, or whether they should maintain data for each affiliate and themselves separately." *Further Notice*, ¶380. If a BOC has multiple affiliates ordering the same services, then it should be allowed to aggregate the requests. Aggregate data is sufficient to meet the needs of §272(e)(1) and would support the

[7] Statistical validity requires sufficient volumes of orders. Initial reports may need to be accumulated to have statistical validity.

confidentiality of competitive information. Furthermore, by aggregating data for multiple affiliates, there can be no claim that BOCs are somehow "manipulating the numbers" by the way they organize their business units into separate affiliates.

The Commission asks whether the BOCs should maintain separate data for each state in their service regions. *Further Notice*, ¶380. We currently maintain data separately for California and Nevada and should be allowed to continue to do so. It would be inefficient to make the changes necessary to report it on a combined basis, and the changes would serve no purpose.

The Commission asks if BOCs should provide information in service categories four and six by CIC. First, the Commission should revise category 4 and not require reporting by category 6 as discussed above. Second, in any event, reporting by CIC should not be required. There are hundreds of CICs in each territory, and IXCs have multiple CICs. Reporting by CIC would be unreasonably burdensome, would be unnecessary to meet the needs of implementing §272(e)(1), and would require the release of proprietary information.

E. New Reporting Requirements Should Be Consistent With Existing Requirements And Limited To What Is Necessary To Implement The Service Provisioning Requirements Of §272(e)(1) (¶382)

The Commission seeks comments on the relationship of state requirements and ARMIS reporting requirements to the current proceeding. *Further Notice*, ¶382. As discussed above, the relevant state reporting requirements and ARMIS reporting requirements are based on percentages of missed or satisfied commitment dates for provisioning intervals and averages of those intervals. In the interest of efficiency, new requirements should be consistent with the requirements under which we already operate.

Finally, the Commission "note[s] that much of Teleport's proposal appears directed toward the implementation of local competition by incumbent LECs, and therefore does not address service intervals provided by the BOCs" and that Teleport has raised many of the same issues in the Interconnection proceeding. The Commission "tentatively conclude[s], therefore, that we should limit the scope of the proposal considered in this docket to requirements necessary to implement the service interval requirements of section 272(e)(1)." *Further Notice*, ¶382.

We agree, for all the reasons discussed above. Going beyond what is required to implement §272(e)(1) would be contrary to Congress's pro-competitive, deregulatory goals.

Teleport's proposal in its comments on the *Notice* would require that BOCs report the prices, terms, and conditions of every service provided to affiliates. These reports would duplicate information in BOC tariffs, accounting reports, and Cost Allocation Manuals, and would not provide additional, useful information relevant to the timing requirement for service provisioning. If Teleport were permitted to obtain non-public information about our separate affiliate's business operations, it could gain an unfair advantage at the expense of competition.

Teleport's proposal in its *ex parte* letter would require highly detailed reports on an exchange basis. These reports would be very costly to produce and would give TCG (and others) competitively sensitive marketing intelligence. We currently have nearly 400 exchanges in California -- there are likely tens of thousands in the industry. TCG's proposal would be wasteful of the Commission's resources, burdensome to the LECs, and contrary to Congress's goal that unnecessary regulation be eliminated. While we are willing to negotiate with CLECs to provide quality of service reports that will meet their needs, such reporting has a cost, and the CLEC should be responsible for bearing these costs. Placing the burden on the BOC to produce

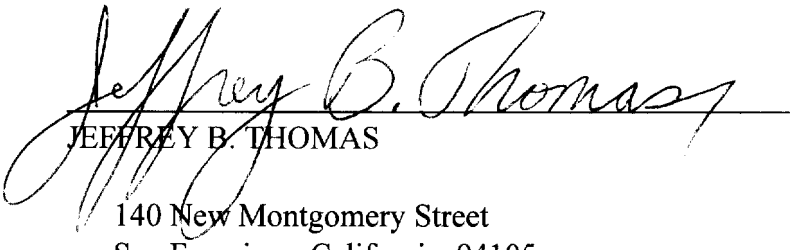
customized reports that may be of benefit only to the competitive LEC involved is unfair, unnecessary, and inconsistent with the intent of the Act, which places principal reliance on private carrier-to-carrier agreements.

III. CONCLUSION

For all the above reasons, the Commission should limit the requirements in this proceeding to those that are necessary to implement §272(e)(1). Following our recommendations for doing this will ensure furtherance of Congress's pro-competitive, deregulatory goals.

Respectfully submitted,

PACIFIC TELESIS GROUP



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